



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

JOSEPH H. BOARDMAN
COMMISSIONER

GEORGE E. PATAKI
GOVERNOR

August 28, 2000

OPTIONAL FORM 99 (7 90)

FAX TRANS

Chris C. F.
Dept./Agency

Fax #

NSN 7540-01-317-7368

Mr. Raymond Werner
Chief, Air Programs Branch
Environmental Protection Agency
Region 2 Office
290 Broadway, 25th Floor
New York, NY 10007-1866

Dear Mr. Werner:

Regarding the Supplemental Notice of Proposed Rule published in the *Federal Register* on 40 CFR Part 52, "Motor Vehicle Emission Budgets in Attainment Design Areas," the New York State Department of Transportation has the following comments and questions:

Will the general grace period in moving from MOBILE 5B to MOBILE 6 provided for by the Department of Transportation and others who perform emissions analysis for a conformity determination be consistent with the 1 or 2 year option being provided for by the EPA in doing new State Implementation Plan (SIP) emission budgets with which they are concerned with the "apples versus oranges" problem that will arise if state DOTs are required to do conformity of their TIPs, Plans and projects with MOBILE 6, say 12 months after the model's release, and the new SIP emissions budgets have not yet been approved, and determined adequate by the U.S. Environmental Protection Agency (EPA)?

The Final Rule should clarify whether EPA will expect TIP, Plan and project conformity determinations to transition to using MOBILE 6 once the new SIP is produced by the state agency with an emissions budget determined adequate for conformity by EPA (in a preferred position), or whether EPA anticipates a situation where the grace period for MOBILE 6 in regional emissions analysis to back up conformity determinations is less than that provided for the SIP. The latter situation could necessitate an emissions reduction test such as the build/no-build test, to avoid comparing an emissions budget to a model.

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based on MOBILE 5B with a conformity estimate based on MOBILE 6. This seems less appropriate for air quality planning purposes than simply relying on an emissions budget test based on MOBILE 5B, in states that have acceptable budgets in place now, until an adequate MOBILE 6 budget is established.

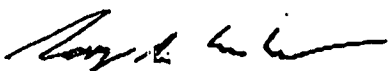
This would not provide any undue reliance on an outdated budget, because as soon as the new budget is in place, these agencies would be required to use it for any conformity determinations. State transportation agencies would be able to coordinate with their air agencies during consultation on establishing the SIP revision for the new budgets to prepare for the needed conformity determinations. This is the only proper way we know to ensure that the required inputs to the MOBILE model being used for the conformity determination are consistent with the SIP. Otherwise, the transportation agencies would be establishing MOBILE inputs based on what we believe the air agency is planning on submitting, and that can be less precise than waiting to see the actual model used to establish the budgets.

Regarding the additional option for a second year before the state has to commit to developing a SIP revision with new MOBILE 6 - based emission budgets, the provision that conformity will not be determined during the additional year is not acceptable to New York, nor, we suspect, in many other states. We could not agree to go an entire year without a single conformity determination. This would prevent us from amending any TIP or long range plan (except for exempt projects) or conforming a project after it has undergone significant changes in design scope and concept as a project not from a conforming Plan or TIP in any nonattainment or maintenance area in the State. Also, in carbon monoxide nonattainment and maintenance areas, this could prevent us from demonstrating conformity of projects via the "hot spot" test. In New York, our air agency has already committed to developing an emissions budget with MOBILE 6 within a single year, which we support fully. The provision seems overly restrictive on transportation agencies, given the same arguments above regarding existing budgets that have already been determined adequate by EPA. With the uncertainty surrounding the new MOBILE 6 model, EPA seems to be relying on "blind faith" that the new model's method of establishing benefits related to the new TIER II is so much better than the interim methods established for MOBILE 5B. Let's wait and see how the MOBILE 6 model performs in practice before applying too many restrictions to using the earlier MOBILE 5B and to transportation agencies.

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Thank you for the opportunity to comment.

Sincerely,



GARY R. MCVOY, Ph.D
Director
Environmental Analysis Bureau

GRM/RC/KD

cc: C. Johnson, N.Y.S. Department of Environmental Conservation
M. Keenan, N.Y.S. Department of Environmental Conservation
J. McDade, Federal Highway Administration
J. Shrouds, Federal Highway Administration
I. Flessman, Federal Transit Administration
R. Kapichak, Environmental Protection Agency
T. Schulze, New York Metropolitan Trans. Council
M. Kealy Salomon, Poughkeepsie-Dutchess Co. Trans. Council
C. Daiker, Newburgh-Orange Co. Trans. Council
J. Poorman, Capital District Trans. Committee
H. Morse, Greater Buffalo Niagara Regional Transp. Council
M. Rowlands, Syracuse Metro. Trans. Council
J. Zamurs, Environmental Analysis Bureau, 5-303
R. Curtis, Environmental Analysis Bureau, 5-303